



# MARYLAND DEPARTMENT OF THE ENVIRONMENT

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February 26, 2014

The Honorable Maggie L. McIntosh, Chairman  
House Environmental Matters Committee  
House Office Building, Room 251  
Annapolis, MD 21401-1991

**Re: House Bill 1081 – *Composting and Anaerobic Digestion Facilities – Yard Waste and Food Residuals***

Dear Chairman McIntosh and Members of the Committee:

The Maryland Department of the Environment (MDE or “the Department”) has reviewed House Bill 1081 *Composting and Anaerobic Digestion Facilities – Yard Waste and Food Residuals*, and we would like to provide our support for composting and anaerobic digestion activities that would increase recycling in the State, as well as provide information regarding the bill.

The Department vigorously supports composting and increasing outreach and education regarding composting in the State. We worked closely with many stakeholders through the MDE Composting Workgroup in 2012 and 2013 to study the best ways to promote composting and improve the regulatory landscape in Maryland for composters. Recently, we have been approached by parties interested in initiating anaerobic digestion projects in the State for municipal solid waste and manures. We are interested in continuing to learn more about the potential benefits of these projects and to work closely with stakeholders to ensure these projects would be protective of the environment. In addition, as part of the State’s efforts to develop a zero waste strategy, MDE intends to continue to investigate the best ways to increase recycling in the short term, including through composting and anaerobic digestion. The Department will continue to seek stakeholder input into these evaluations.

House Bill 1081 would amend Title 9, Subtitle 17 of the Environment Article to require, on or after October 1, 2015, the separate collection and composting or anaerobic digestion of any amount of yard waste or two or more tons of food residuals per week, if a composting facility or anaerobic digestion facility with capacity and willingness to accept the materials is available within 30 miles of a generator of yard waste or food residuals. The bill would add to an existing provision that prohibits an owner or operator of a refuse disposal system from accepting truckloads of separately collected yard waste for disposal, unless the owner provides for composting or mulching of the yard waste by requiring the separation of food residuals from “other solid waste” and ensuring that the food residuals are transported to a composting facility or anaerobic digestion facility for final disposal. As drafted, the bill does not consider that food residuals could be beneficially used on farms for animal feed or as a soil amendment.

The bill would also add new language to § 9-1725 to require MDE to adopt regulations to: establish conditions under which a person may construct and operate an anaerobic digestion facility; establish a tiered system of permits or approvals for anaerobic digestion facilities based on the type of feedstock, size of the facility, and other factors determined by the Department to be appropriate; establish design and operational conditions for anaerobic digestion facilities to protect public health and the environment and to minimize nuisances; and



establish exceptions to any requirement to obtain an anaerobic digestion facility permit or approval. A person would not be allowed to operate an anaerobic digestion facility in the State except in accordance with these regulations and permits or approvals issued under the regulations. It should be noted that MDE proposed composting regulations pursuant to § 9-1725 on January 10, 2014. The Department would either have to amend those regulations to address anaerobic digestion or propose new ones related to anaerobic digestion.

There is some uncertainty whether the bill would eliminate the possibility of utilizing mulching for management of yard waste. The bill removes existing language in § 9-1724 that requires that “An owner or operator of a refuse disposal system may not accept truckloads of separately collected yard waste for final disposal unless the owner or operator provides for the composting or mulching of the yard waste.” However, in new § 9-1723 (b) (2), the bill states that “An owner or operator of a refuse disposal system may not accept truckloads of separately collected yard waste for final disposal unless the owner or operator provides for the composting or mulching of the yard waste.” In § 9-1723 (A)(2), a person who disposes yard waste must ensure that separated yard waste is transported to a composting facility or an anaerobic digestion facility for final disposal. This is confusing because in current law, proper composting of compostable materials is not considered to be disposal. In addition, the elimination of the permissible management of yard waste through mulching (§ 9-1723 (A)) implies that only yard waste separately collected within 30 miles of a composting facility or an anaerobic digestion facility can go to such a facility and that it may not be accepted at a refuse disposal system that provides for mulching. The bill’s new § 9-1723 (b)(2) states that “An owner or operator of a refuse disposal system may not accept truckloads of separately collected yard waste for final disposal unless the owner or operator provides for the composting or mulching of the yard waste.” It is possible that the intent was to allow separately collected yard waste from residences to continue to be accepted at municipal landfills while encouraging yard waste from commercial facilities within a certain radius to be sent to composting or anaerobic digestion. These provisions should be clarified.

The Department supports increased recycling in Maryland. The concepts proposed in this bill are laudable. The Department understands that the MD-DC Compost Council, in coordination with others, is supporting House Bill 1081 with some suggested amendments to the bill. The Department would like to work with the Committee, the sponsor, the MD-DC Compost Council, and other stakeholders to draft amendments which would ensure that healthy and environmentally sound composting and anaerobic digestion facilities would be available in the State in order to accommodate increases in diversion of yard waste and food residuals.

Thank you for your consideration. We will continue to monitor House Bill 1081 during the Committee’s deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or by e-mail at [jeffrey.fretwell@maryland.gov](mailto:jeffrey.fretwell@maryland.gov).

Sincerely,



Jeffrey Fretwell

cc: The Honorable Shane Robinson  
Mr. Horacio Tablada, Director, Land Management Administration